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DEBATE.

IN THE HOUSE OF REPRESENTATIVES

BETWEEN

Mr. Butler, of Massachusetts, and Mr. Bingham, of Ohio, on the Million Appropriation Bill of the Senate for the relief of the Southern Rebels; and the amendment of Mr. Butler that a like sum be appropriated to the relief of the Widows and Orphans of our Soldiers starved in rebel prisons; or that the rich rebels should be taxed to feed their own poor.

The House being in Committee of the whole upon the amendment proposed by Mr. BINGHAM, to substance that the Commissioner of the Freedmen's Bureau should support the poor of the South to the extent of all the moneys in his hands—

MR. BUTLER, of Massachusetts, said:

Mr. Chairman, in the first place I would like to inquire to what time debate is limited?

The CHAIRMAN. Five minutes for and five minutes against each amendment. The pending amendment is that which has been offered and advocated by the gentleman from Ohio, [Mr. BINGHAM.] The Chair understands the gentleman from Massachusetts to rise to oppose the amendment.

Mr. BUTLER. I propose, Mr. Chairman, to present a few suggestions for the purpose of showing why the amendment offered by the gentleman from Ohio should not be adopted; and I think that, in view of the fact that the gentleman has spoken three times on this question, I shall ask him to interpose his good offices and his great influence with the House to secure for me the privilege of speaking somewhat longer than five minutes. I will promise not to consume very much time.

In the first place, let us see what the Freedmen's Bureau has done. I speak from official reports. During the year ending November 1, 1866, by order of the President of the United States, two hundred and eighty-seven thousand one hundred and twenty-two acres of land and two thousand six hundred and five pieces of town property, amounting altogether to more than ten million dollars, were taken from the freedmen, to whose benefit they had been appropriated by act of Congress, and returned to the white men of the South who had been engaged in the rebellion. We are now

asked to aid still further the white men at the expense of the freedmen.

What else has been done? During the fifteen months closing with August, 1866, as appears by the report of General Howard, four million five hundred and seven thousand nine hundred and twenty-two rations were distributed to refugees in the South, in addition to the rations furnished to freedmen. General Howard further states:

"The number of rations issued to the colored people has constantly decreased. They have found labor, for which they have received support, and in some cases good wages. Although many complaints are made of the amount of rations issued to the freedmen, the fact of the constant decrease of their demands is very creditable. The issue to whites increased until June 30, 1866, when the issue to freedmen and refugees were about equal throughout the South."

Again, sir, at the request of the Governor of Alabama, rations to the amount of \$40,000 per month for the period of three months were issued in the State of Alabama, principally for the relief of the white people. Yet, notwithstanding all this expenditure, we are asked to encroach still further upon the provisions made for the freedmen, for the sake of aiding whom? Not merely the women and the children, not merely the sick and the disabled, but the able-bodied rebel, who, lounging at the corner grocery, refuses to work, while the "mudsills" of the North are obliged to work in order that they may pay taxes for the support of the Government. Shall the "mudsills" of the North be taxed to support in lazy, whiskey-drinking idleness the self-styled "aristocracy" of the South?

And we are told that, after we have for such a purpose as this diverted a million or two millions of the money appropriated for the benefit of the freedmen, we are to bring in a deficiency bill to supply the amount thus withdrawn from the legitimate purposes of the Freedmen's Bureau. For

my part I am opposed to such legislation, and I desire to enter my protest against it in every form, even though the legislative experience—I was about to say “chicanery”—of my friend from Ohio restricts me to five minutes in which to enter my protest against what he has advocated in his speech of an hour.

It is said, sir, that the people of the South are starving, and I accept that statement as fact. My friend from Vermont [Mr. WOODBRIDGE] told us that this was the work of the Lord, quoting the passage, “Vengeance is mine: I will repay, saith the Lord.” Be it so. It would seem as if an avenging Providence had sent this starvation especially upon those parts of the country where the Union prisoners were starved: in the vicinity of Richmond and Salisbury, and Andersonville and Millen, and other places in the South where our soldiers underwent so much suffering. The men and women who stood by and viewed without compassion the miseries endured by our noble soldiers will, if they experience a little starvation themselves, be able to realize what was suffered in Southern prisons by those who fought our battles.

[Here the hammer fell.]

Here a varied debate ensued between many gentlemen, during which Mr. WOODBRIDGE commented on the resolutions of the Grand Army of the Republic approving the course of Messrs. LOGAN, of Illinois, COVODE, of Pennsylvania, and BUTLER, in opposing this appropriation, which had been eloquently replied to by General LOGAN, when

Mr. BUTLER said: I renew the amendment to the amendment, because I understand I can get the opportunity to speak now only by moving some amendment which I do not mean. That is a new revelation to me in my short experience in legislative life.

I desire to reply to some of the observations that fell from the gentleman from Vermont, [Mr. WOODBRIDGE,] as well as to call the attention of the House to the course pursued by the gentleman from Ohio, Mr. [BINGHAM.]

The gentleman from Vermont was kind enough the other day to tell the House that I was no statesman. Now, I agree to that; and I am sorry such is the fact. I just escaped being a statesman, I suppose, by not being elected to the Thirty-Ninth Congress. [Laughter.]

Mr. WOODBRIDGE. I simply desire to state to the gentleman from Massachusetts [Mr. BUTLER] that I said no such thing, made no such charge, and the gentleman knows it.

Mr. BUTLER. Then he means to say that I am a statesman, [laughter,] and I am very much obliged to him. Now, a word more

in regard to the action of the soldiers of the Grand Army of the Republic. I received from them, unsolicited and unasked, a resolution approving my course. And so long as I have the approval of the soldiers of the Army, I can very well do without the approval of those who were engaged in wearing out the soft cushions of the seats in this House during the entire war; I can survive the one if I have the other.

Now, I am not here to say anything that may be considered at all personal in its character. But I desire to ask the attention of the House to the fairness of the course of the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. I rise to a question of order. The gentleman has no right to raise a question of fairness upon my conduct here at this time of day.

Mr. BUTLER. What does the gentleman say?

Mr. BINGHAM. I raise the point of order that the gentleman has no right to reflect upon my conduct here by raising the question of fairness.

Mr. BUTLER. Well, unfairness, then; I will admit that I was mistaken in calling it a question of fairness. [Laughter.]

Mr. BINGHAM. I call the gentleman to order.

Mr. BUTLER. I will withdraw the question of fairness; I admit that none can be raised. Will that do? [Laughter.]

Now, in regard to this joint resolution, I have one further consideration to present. I ask members here if they are ready to vote an appropriation of \$1,000,000 in any form before they decide the question which is involved in the amendment proposed by the gentleman from Ohio, in front of me, [Mr. SCHENCK?] That amendment provides that district commanders may relieve the distressed people of their districts by distributing aid to them from the stores of the Army, and then tax the rich rebels to pay for those stores.

Gentlemen talk about confiscation, and say that this is unconstitutional. Now, it would seem that there is nothing constitutional except to put the hand into the Treasury of the United States. As I have said already, I ask no confiscation of any rebel property; but I ask that the rich of the community shall support the poor and suffering.

[Debate followed, in which Mr. BINGHAM modified his amendment.]

Mr. BUTLER. I am opposed to the amendment of the gentleman from Ohio, [Mr. BINGHAM,] and in order to demonstrate my position, I will ask the Clerk to read as a part of my remarks the plan of the President of the United States.

The Clerk read as follows:

Extract from Diary of Rebellion Record, volume six, page 25, December 15, 1862.

“Governor Johnson, of Tennessee, this day issued an order assessing certain individuals in the city of

Nashville, in various amounts to be paid in five monthly instalments, in behalf of the many helpless widows, wives, and children in the city of Nashville who have been reduced to poverty and wretchedness in consequence of their husbands' sons, and fathers having been forced into the armies of this unholy and nefarious rebellion."

Extract from Appleton's American Encyclopedia, volume—, page 769.

"About the same time [latter part of 1862] Governor Johnson published an order assessing the wealthy secessionists of Nashville and the vicinity to the amount of \$60,000 for the support of the poor during the winter."

Mr. SCHENCK. That is the plan embraced in my substitute.

Mr. BUTLER. Now, I ask how my friend from Ohio, [Mr. BINGHAM,] who has got over on the other side not only in body, but in spirit, [laughter,] can afford to go against the policy of the President, to which I call his attention? There it is; that is the example set us by that "great and good man" when he had the power and the inclination. He taxed the rich secessionist in order to feed the wives and children of the poor men who had been forced into this "nefarious rebellion." Now, I want to do the same thing: nothing more and nothing less.

Now, before I sit down, I want to make another suggestion to our friends on the other side, because I know what weighs on their minds. I would ask them how they can vote for the amendment of the gentleman from Ohio, [Mr. BINGHAM,] recognizing, as it does, that abomination of abominations, the "Negro Bureau," which they have always opposed?

[Here the hammer fell.]

Mr. BINGHAM. I move to amend by striking out the last word.

I desire to say, Mr. Chairman, that it does not become a gentleman who recorded his vote fifty times for Jefferson Davis, the arch-traitor in this rebellion, as his candidate for President of the United States, to undertake to damage this cause by attempting to cast an imputation either upon my integrity or my honor. I repel with scorn and contempt any utterance of that sort from any man, whether he be the hero of Fort Fisher not taken or of Fort Fisher taken. [Laughter.] I stand here also in the name of the American people to repel with scorn the attempt to levy charity by confiscation, in violation of the Constitution of my country. That, sir, is the proposition which the gentleman dares to offer in an American Congress in the sacred name of charity.

[Here the hammer fell.]

Mr. BUTLER. Mr. Chairman—

The CHAIRMAN. All debate by order of the House is exhausted.

Mr. BUTLER. I understand the Chair to state a while ago that all debates would close at fifteen minutes past three o'clock.

The CHAIRMAN. The Chair stated that the hour to which debate had been limited would expire at eighteen minutes after three o'clock.

Mr. BUTLER. So that the gentleman from Ohio had just enough time to make a personal attack upon me.

The CHAIRMAN. No debate is in order.

Mr. BUTLER. I ask the privilege of replying to the gentleman from Ohio.

The CHAIRMAN. The gentleman can ask the privilege of the House, but not of the committee.

Mr. BUTLER. I ask it of the committee.

The CHAIRMAN. The committee is not competent to grant the privilege.

Mr. ELDRIDGE. I hope that by unanimous consent the committee will grant the gentleman the privilege. This is a subject which I should be glad to have ventilated.

The CHAIRMAN. The committee must rise for that purpose. The Chairman is acting under the express order of the House, that all debate be limited to one hour.

Mr. FARNSWORTH. I move that the committee rise.

On the motion there were—ayes 45 noes 58.

Mr. STEVENS, of Pennsylvania. I call for tellers.

Tellers were ordered; and Messrs. FARNSWORTH and BINGHAM were appointed.

The committee divided; and the tellers reported—ayes 67, noes 62.

So the motion was agreed to.

The committee accordingly rose and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union having, according to order, had the Union generally under consideration, and particularly Senate joint resolution No. 16, for the relief of the destitute in the southern and southwestern States, had come to no resolution thereon.

RELIEF OF DESTITUTE IN THE SOUTH—AGAIN.

Mr. FARNSWORTH. I propose to move to reconsider the vote restricting debate in Committee of the Whole on this bill; but before making that motion I will yield to the gentleman from Massachusetts, [Mr. BUTLER,] who desires an opportunity to reply to the gentleman from Ohio.

The SPEAKER. It will require unanimous consent for the gentleman from Massachusetts to make his remarks at this time, as the bill is not before the House, but in Committee of the Whole. If the gentleman will indicate how much time he desires, the Chair will ask unanimous consent for him to proceed now.

Mr. BUTLER. Ten minutes.

Mr. ELDRIDGE. I hope the House will grant unanimous consent, and not permit the gentleman from Massachusetts to be "bottled up" in this manner. [Laughter.]

The SPEAKER. If no gentleman objects, the Chair will understand that the gentleman from Massachusetts has unanimous consent to speak for ten minutes.

There was no objection.

Mr. Speaker, I am under obligations to the House for its kindness in my behalf; and I will endeavor to avoid trespassing unduly upon its time.

I have never concealed, Mr. Speaker, the fact which is now so offensively put forward, that before the war I, in the convention of my party, voted fifty-seven times for Jefferson Davis for President. I thought him the representative man of the South, and I hoped by his nomination to prevent threatened disunion. I was foiled, and disunion came. The difference between me and the honorable gentleman from Ohio is this: while Jefferson Davis was in the Union, a Senator of the United States, and claiming to be a friend of the Union, I supported him; but he now supports him when he is a traitor. [Laughter.] I left him as soon as he left the Union. [Renewed laughter.] I saw the error of my ways and repented; but I did not expect that a blow would be made against me from that direction, from the side of the House that supported him then and has supported him ever since, and is still supporting him and his friends.

I did not mean to impugn the honor of the gentleman from Ohio or his integrity. I only said that I thought he was on the other side of the House.

MR. BINGHAM. Will the gentleman pardon me. If the gentleman had qualified his

remark by saying that he only thought so, I would not have said a word in reply. The gentleman did not qualify his words by any such expression.

MR. BUTLER. The words I used, if I am not mistaken, were these: that he was in spirit, as he was in body, on the other side of the House. I thought so then, I think so now; I said so then, I say so now, [laughter,] and I cannot take it back.

The gentleman has the bad taste to attack me for the reason that I could not do any more injury to the enemies of my country. I agree to that. I did all I could—the best I could. Other men of more ability could do more; and no man is more ready to give them the highest plaudits for valor and discretion and conduct than I am. And because I could not do more I feel exceedingly chagrined; but if during the war the gentleman from Ohio did as much as I did in that direction, I shall be glad to recognize that much done. But the only victim of the gentleman's prowess that I know of was an innocent woman hung upon the scaffold—one Mrs. Surratt. And I can sustain the memory of Fort Fisher if he and his present associates can sustain him in shedding the blood of a woman tried by a military commission and convicted without sufficient evidence in my judgment.

[Mr. Bingham made a reply to Mr. Butler, which is printed from the phonographic notes of the Official Reporter, as written out by himself, in the left-hand column, VERBATIM, and contains 589 words.]

The speech, as altered and written out by Mr. Bingham's own hand, and published in the *Globe* by him as the official report of his IMPROMPTU speech, is printed in the right-hand column, VERBATIM. The additions are in ITALICS; the erasures of the Reporter's manuscript in brackets, [thus,] and contain 1,047 words and 282 erasures and alterations.

As Mr. Bingham's speech was never delivered as printed, Mr. Butler could not reply to it. Mr. Butler never saw the manuscript of either his own or Bingham's speech until both were in print.]

MR. BINGHAM. Mr. Chairman, I desire to make a remark or two, and I hope I will have the consent of the House.

The CHAIRMAN. How long does the gentleman want?

MR. BINGHAM. Five minutes.

There was no objection.

MR. BINGHAM. After ten years of service in the Congress of the United States, the gentleman will look in vain for one remark of mine personal to mortal man upon this floor, save when I was gratuitously assailed by others.

MR. BINGHAM. Mr. Chairman, I desire to make a remark or two, and I hope I will have the consent of the House.

The CHAIRMAN. How long does the gentleman want?

MR. BINGHAM. Five minutes.

There was no objection.

MR. BINGHAM. [After] Although I have seen ten years of service in the Congress of the United States, the gentleman will look in vain for one remark of mine personal to [mortal] any man upon this floor, save when [I was] I replied to gratuitously assailed assaults upon me; and I beg leave to add, scarcely a word of mine can be found in the proceedings of this House which can be construed into unkindness towards a fellow Member [by others.]

I have observed the amenities of debate in the House, and the amenities of personal conduct out of the House, in such form as, I trust, entitles me to the respect and consideration of those who know me best. Sir, the gentleman, when he talks about matters of taste, chooses to constitute himself my judge, and to decide touching the integrity of my conduct as a sworn representative of the people; and when he came to make his reply, feeling that he had done dishonor to himself and injustice to me, he undertook to qualify his original charge by saying that he only said he thought so. Sir, if he had said that he only thought so, it would never have disturbed my equanimity, for that would have concerned me as much as what his thoughts are as to "who killed Cock Robin."

But, sir, the gentleman has shown some want of consideration for the rights of others in the remarks he has just made by the favor of this House.

By what right, sir, does he constitute himself the judge of men who were his peers in the field, when the blackness and tempest of that great conflict, which, like an earthquake, rocked this continent, are stained with the blood of the innocent?

I have observed the amenities of debate in the House, and the amenities of personal conduct out of the House, in such measure [form] as, I trust, entitles me to the respect and consideration of those who know me best. [But,] sir, the gentleman [when he] talks about matters of taste—in which he is doubtless a master—and, as a matter of taste, [chooses to] constitute[s] himself my judge, and undertakes to decide upon [touching] the integrity of my conduct as a sworn representative of the people. I respectfully challenge the gentleman's fitness to be my accuser, and deny his right to judge of my official conduct. When I had thus answered the gentleman's gratuitous assertion, that I had abandoned and betrayed my principles, [and when he came to make his reply,] feeling that he had done dishonor to himself and injustice to me, he vainly seeks [undertook] to qualify his rude assertion [original charge,] by saying that he only said he thought so. Sir, if he had said that he only thought or feared that I had abandoned principles, because I ventured to differ from him, [so,] it would never have disturbed my equanimity, and would have elicited no reply from me. Indeed, sir, what the gentleman thought about my official action would have given me no more [for that would have] concerned [than it would concern me to know what his thoughts were upon the question [me as much as what his thoughts are as to] "who killed Cock Robin?"

But, sir, the gentleman has shown the same want of consideration for the rights of others in the remarks he has just made by the favor of this House, as was shown by him when this day he first assailed my official action, without excuse or provocation.

By what right, sir, does [the] gentleman now constitute himself the judge, not only of his peer upon this floor, but the judge of men who were his peers in the field—men who stood in the day of battle only where brave men dare stand in the darkness—[when the blackness and tempest] of th[at] e great conflict, [which, like an]where the earthquake and the fire led the charge, and the victory was won, not without suffering and death, [rocked] this continent, are stained with the blood of the innocent.]

The gentleman denounces me as having executed an innocent person without evidence. I have executed no person, but acted as the advocate of the United States on the trial of persons who were charged with, and convicted of, the assassination of Abraham Lincoln. The gentleman pronounces, with the assurance of Sir Oracle, that an innocent woman was on that trial convicted without sufficient evidence. By what right does the gentleman thus assail me, or the tribunals of true and brave, and honorable men, who found the facts upon their oaths, and pronounced the judgment. What does the gentleman know of the evidence in the case, and what does he care for the evidence when he thus assails the official conduct of those men who constituted the Court.

Does the gentleman mean to say, by his sweeping judgment, that it is also upon the hands of these brave men who were constituted, by the order of your President, a Court to pronounce that final judgment without which nobody would have been executed?

Sir, I leave it in the language of a man, the latchet of whose shoes the gentleman would be unfit to unloose—a man who knew what was the rule that sought to govern the conduct of a judge, and who said that he would first patiently hear and consider, and afterwards pronounce judgment.

In the language of the great Lord Chancellor of England, notwithstanding the utterances of the cynical poet that he was the greatest, meanest of mankind—a man who, to use his own words, was touched with an inner sense and knowledge of the Deity, I am not ashamed to say, in answer to the gentleman's accusation. Whether the blood of innocence is on my hands or not, I leave to the charitable speeches of men and to future ages. For, sir, that great question, as connected with the assassination of the chosen of the people, by which he was cut down in the presence of his rejoicing Countrymen, not for his crimes but for his virtues, murmuring, as his great soul went up to the common Father of us all, "Charity towards all and malice towards none," it was fixed that the means by which his taking off was accomplished should be ascertained and determined. When summoned to that duty, I protested that I was not equal to the task, and those who called me to the work know best with what reluctance I entered upon it. But, sir, with my own present conviction upon the record that has gone out to the world, I defy the gentleman's calumny.

Does the gentleman [mean to say by his sweeping] *hope to condemn me for the judgment, [that it is also upon the hands of these] that was pronounced by the nine brave men who were constituted, by the order of your President, a Court to [pronounce that final judgment without which nobody would have been executed] hear and determine that issue of life and death upon their oaths according to the evidence. He cannot, sir, condemn me for the act of others whatever he may endeavor. Malice itself, sir, cannot hold me to answer for the judgment of others. It is due to justice to say that the judgment of that honorable Court is not without testimony to sustain it.*

[Sir, I leave it in the language of a man] *Sir, I leave this accusation by saying to the gentleman in the words of a man who, though pronounced by a cynical poet the greatest, wisest, meanest of mankind—as a man, the latchet of whose shoes the gentleman would be unfit to unloose, that it is the duty of a good judge to hear patiently and be truly impartial. The gentleman constitutes himself my judge without right, and [a man who knew what was the rule that ought to govern the conduct of a judge, and who said that he would first patiently hear and consider, and afterwards] pronounces judgment against me without a hearing.*

[In the language of the great Lord Chancellor of England, notwithstanding the utterances of the cynical poet that he was the greatest, meanest of mankind—a man who, to use his own words, was touched with an inner sense and knowledge of the Deity, I am not ashamed to say, in answer to the gentleman's accusation. Whether the blood of innocence is on my hands or not, I leave to the charitable speeches of men and to future ages. For, sir, that great question, as connected with.]

As the gentleman thus seeks to condemn me unheard, and without warrant of law or color of justice, in his high position as a Statesman, I would remind him of another utterance of the High Chancellor of England, that "Statesmen of greatest depths and compass have been touched with an inward sense and knowledge of Deity." Let those who have witnessed the gentleman's bearing in this controversy towards me, and who have heard his rude and uncarranted judgment upon my official conduct here and elsewhere, decide whether he has exhibited the character of a good judge, a great Statesman, or a gross voluntary calumniator. Whether, in the discharge of the delicate trust committed to me on the trial of those convicted of assassination, I condemned and executed the innocent with or without evidence, I leave to the charitable speeches and just judgment of men and the recorded facts of history.

While I offer no apology for my official conduct on that trial, I beg leave to say that it was fit that the assassination of the chosen of the people, [by which he was cut down] in the Capital of the people, and felt in the presence of [his rejoicing Countrymen,]

their laws, not for his crimes but for his virtues, should be investigated, and that swift judgment should fall upon those guilty of his murder, and whose hands would not spare his life, even at the moment when, from [whose] his great soul, the words went up to our common Father, "Charity toward all and malice toward none," [murmuring, as his great soul went up to the common Father of us all, "Charity toward all and malice toward none," it was fixed that the means by which his taking off was accomplished should be ascertained and determined.] When summoned to that stern duty, I protested that I was not equal to the task, and those who summoned [called] me to its discharge [the work, with my own present convictions] know best with what reluctance I entered upon it. But, sir, upon the record that has been made I stand and [gone out to the world I] defy the gentleman's calumny.

On Tuesday, March 26, Mr. BUTLER having caused the foregoing exposé of Mr. BINGHAM'S speech to be distributed to the House, by unanimous consent, made the following explanation:

MR. BUTLER. I ask leave to make a personal explanation, which will occupy the attention of the House but a few moments.

MR. ROSS. I would ask how much time the gentleman wants?

MR. BUTLER. Fifteen minutes will do.

No objection was made, and leave was accordingly granted.

MR. BUTLER. Mr. Speaker, I have caused to be laid upon the table of each member a copy, as reported in the official journal of the House, of the speech of the gentleman from Ohio, [Mr. BINGHAM,] the other day in reply to me. I desire to call the attention of the House to the fact that that speech as published contains double the amount of matter which the official reporters furnished; and also that almost one-half of the words contained in the original official report are erased. Now, I understands the rule to be, that in any debate personal to a member, no such change can be made properly without the consent of the member to be affected thereby. But what I particularly desire to call the attention of the House to is this: that a change is made in the report which takes the shape of a direct attack upon me to which I could make no reply. The new matter is as follows.

"The gentleman denounces me as having executed an innocent person without evidence. I have executed no person, but acted as the advocate of the United States on the trial of persons who were charged with, and convicted of, the assassination of Abraham Lincoln. The gentleman pronounces, with the assurance of Sir Oracle, that an innocent woman was on that trial convicted without sufficient evidence. By what right does the gentleman thus assail me, or the tribunals of true and brave and honorable men, who found the facts upon their oaths and pronounced the

judgment? What does the gentleman know of the evidence in the case, and what does he care for the evidence when he thus assails the official conduct of those men who constituted the court?"

Now, with the leave of the House, I do not desire to make any characterization by use of epithets of such a change. That even in the heat and ardor of debate we may throw off expressions which upon reflection we would a little rather had not been said, it is most true, may be, and should be changed in the official report. I may do so myself. But he who, in the cool hour of the silent night, sits down and deliberately pens an accusation against his peer to which he cannot reply is not to be envied.

Therefore I ask leave now to state the evidence upon which I made the assertion I did the other day, that Mrs. Surratt was improperly convicted; because the gentleman says that I neither knew nor cared for the evidence. I hold in my hand the evidence as reported under the gentleman's official sanction. I examined it with great care long ago. The statement I made the other day was not sporadic thought with me; it was the result of a careful examination of this case for another and a different purpose, in the endeavor to ascertain who was concerned in fact in the great conspiracy to assassinate President Lincoln.

The gentleman says he was "the advocate of the United States only." Sir, he makes a wide mistake as to his official position. He was the special judge advocate whose duty it was to protect the rights of the prisoner as well as the rights of the United States, and to sum up the evidence and state the law as would a judge on the bench. Certainly it was his duty to present to the

commission all the evidence bearing upon the case.

Now, there was a piece of evidence within the knowledge of the special judge advocate, and in his possession, which he did not produce on this most momentous trial. When Booth was captured by the force under Lieutenant Colonel Conger there was taken from his pocket a diary like the one I now hold in my hand. In this diary Booth had set down, day by day, his plans, his thoughts, his motives, and the execution of his plans. That diary came into the possession of the Government, but it was not brought before the military commission. Although even Booth's tobacco-pipe, spur, and compass, found in the same pocket with the diary, were put in evidence, the diary was not produced. The diary has been before your Committee on the Judiciary. Let me say here, to exclude conclusions, that I do not obtain my evidence from them. That diary, as now produced, has eighteen pages cut out, the pages prior to the time when Abraham Lincoln was massacred, although the edges as yet show they had all been written over. Now, what I want to know is this: was that diary whole when it came into the hands of the Government? And second, if it was good judgment on the part of the gentleman prosecuting the assassins of the President to put in evidence the tobacco-pipe which was found in Booth's pocket, why was not the diary, in his own handwriting, put in evidence, and wherein he himself had detailed the particulars of that crime?

And therefore I did not charge the able and gallant soldiers who set on that court with having done any wrong. They did not see the diary. They did not know of the diary. If they had they might have given a different finding upon the matter of this great conspiracy.

Who spoliated that book? Who suppressed that evidence? Who caused an innocent woman to be hung when he had in his pocket a diary which had stated at least what was the idea and the purpose of the main conspirator in the case? There is still remaining in that diary a most remarkable sentence, written apparently but a few hours before Booth died. I give it from memory:

"I have endeavored to cross the Potomac five times, but failed. I propose to return to Washington and give myself up, and clear myself from this great crime."

How clear himself? By disclosing his accomplices? Who were they? Who spoliated that book after it got into the possession of the Government, if it was not spoliated before? And what evidence is there that it was spoliated before?

Why was not Lieutenant Colonel Conger allowed to state fully in regard to this matter? Let me read from the reported evidence on the trial. It will be seen that the questions were carefully put, so that Conger

when on the witness-stand should not tell about that book. He says:

"I then took what things were in his pockets and tied them up in a piece of paper. He was not then quite dead. He would—once perhaps in five minutes—gasps; his heart would almost die out, and then it would commence again, and by a few rapid beats would make a slight motion. I left the body and the prisoner Herold in charge of Lieutenant Baker. I told him to wait an hour if Booth was not dead; if he recovered to wait there, and send over to Belle Plain for a surgeon from one of the gunships, and if he died in the space of an hour to get the best conveyance he could and bring him on."

"I stayed there some ten minutes after that was said when the doctor there said he was dead."

"[A knife, pair of pistols, belt, holster, file, pocket-compass, spur, pipe, carbine, cartridges, and bills of exchange were shown to the witness.]

"That is the knife, belt, and holster taken from Booth; the pistols I did not examine with any care; but they looked like these; that is the pocket-compass, with the candle-grease on it; just as we found it; the spur I turned over to Mr. Stanton; and I judge this to be the one taken from Booth. That is the carbine we took; it is a Spencer rifle, and has a mark on the breech by which I know it; both pistols and carbine were loaded; I unloaded the carbine myself in Mr. Secretary Stanton's office, and these are the cartridges that I took out; there was one in the barrel and the chamber was full; these are the bills of exchange. I put my initials on them."

"I had seen John Wilkes Booth in Washington, and recognized the man who was killed as the same. I had before remarked his resemblance to his brother, Edwin Booth, whom I had often seen play."

It will be seen that there was no point where the witness was asked, "Were these things all that you took from Booth's pockets?" Certain articles were spread out before the witness, even to a tobacco-pipe, and he was asked, "Did you take this?" "Did you take that?" He answered, "Yes." But if the proper question had been asked he would have answered, "Yes; and I took the diary of Booth from his person; it was not necessary that I should know anything about him from his resemblance to his brother, Edwin Booth, in order to recognize him, because I took this diary in his own handwriting from his own breast as he lay there gasping in the agonies of death." That would have been an identification beyond all question and all peradventure.

Now, sir, I do not know what would have been the judgment of that military commission if that evidence found upon the person of the prisoner had been produced; and that evidence ought, in my judgment, to have been produced. I will state here (because I wish to deal fairly and justly with this case; I have no feeling, no heat in regard to it) that I understand the theory to be that that evidence was not produced lest Booth's glorification of himself, as found in his diary, should go before the country. I think that a lame excuse. If an assassin can glorify himself, let him do so. No harm could result from it in the minds of a patriotic and intelligent people. Therefore, I again ask, Why was a most remarkable piece of evidence, which was found on the body of the great conspirator, concealed? No, I will take that back; I will not say "concealed;" but why was it not brought forward on that trial? Why

was it not brought to the knowledge of the public mind? I believe that piece of evidence would have shown what the whole case, in my judgment, now shows: that up to a certain hour Booth contemplated capture and abduction, and that he afterward changed his purpose to assassination on consultation with the conspirators about him.

Mrs. Surratt may or may not have known of that change of purpose from abduction to assassination. Now, what I find fault with in the special judge advocate, who did not sum up for the prisoners, is that in his very able and very bitter argument against the prisoners, no notice is taken by the special judge advocate of this change of purpose and brought to the attention of the men who composed that military tribunal. And if Mrs. Surratt did not know of this change of purpose there is no evidence that she knew in any way of the assassination, and ought not, in my judgment, to have been convicted of taking part in it.

Mr. Speaker, these are briefly some of the reasons why in my former remarks I said "I am glad the blood of that woman, be she guilty or innocent, is not upon my head." But in no manner, in no way, by no intendment or word of mine, did I mean to say that those able and discreet officers, military men who relied for the law of the case upon the Special Judge Advocate, and who thought they had all the facts which could throw light upon the case, but before whom all the facts were not put, did any wrong whatever—I do not mean to say they judged wrongly under the lights they had. But the point I make, and the point which shall stand made before this country, is that all the testimony possible to throw light on that case was not before that tribunal; for if we had only the advantage of all the testimony, Mr. Speaker, we might then have been able, with the testimony of witnesses fresh in mind, to find who, indeed, were all the accomplices of Booth; to find who it was that changed Booth's purpose from capture to assassination; who it was that could profit by assassination who could not profit by capture and abduction of the Presi-

dent; who it was expected by Booth would succeed to Lincoln if the knife made a vacancy, which we cannot do now but might have done if we could ascertain what was in that book. Although in some aspects of the case it might not have been legal evidence, yet in all aspects it is moral evidence, carrying conviction to the moral sense. It is the dying declaration of a man, assassin though he be, who was speaking the truth, probably to himself, as between himself and his God.

If we had all the pages we should have had some explanation of this great fact: how was Booth to clear himself, by going back to Washington, from the great crime he had committed? That Booth thought he could do so appears from what still remains; the other eighteen pages are gone. Were they gone when the book came into the possession of the learned judge advocate? If they were, why did he not inquire when and where they went? When Lieutenant Colonel Conger gave it to some one, why did he not inquire "Was it whole then?" When it went into the hands of the next man was it whole then? Whose was the knife that cut the leaves in a way that is plain to be seen of all men.

I am not now speaking of anything which is mere hearsay, but of that which I know. I am speaking of that in which, if I speak wrongly, any gentleman of the Judiciary Committee who has had this book before him can correct me. Again, I take leave to say I am not speaking of any knowledge got from them, because they properly keep it to themselves.

Now, sir, I should not have further pursued this matter except that the gentleman charged me with having made my statement without evidence—without examination of the evidence. He has chosen to bring this matter here by that charge, and I desire now in some form this matter shall be fully and thoroughly investigated, so that all the facts may be brought before the House and the country.

THE SPEAKER. The gentleman's time has expired.

Mr. CLARKE, of Kansas, on the 29th of March, having introduced a Resolution ordering the Committee on the Judiciary to report upon the subject of Impeachment, Mr. BUTLER spoke as follows, in the time allotted him:

Mr. CLARKE, of Kansas. I yield fifteen minutes to the gentleman from Massachusetts.

Mr. BUTLER. Allow me to say that I had no knowledge of this resolution until it was read to the House. I have examined it, and I desire to say a few words in its behalf. In reply to the gentleman from New York, [Mr. Wood,] who says this is an absurd and unjust agitation of the question of impeachment, having had something to do with that agitation, I suppose I may without offence state some of the grounds upon which I have acted.

In the first place, as to what has been done by the committee. No man has a right to know what they know. It is enough that they have said solemnly that there is sufficient ground to continue the investigation, and that they have not completed it. That being so, no man has a right to say that they have found nothing. They have found something by which they feel themselves called upon to continue their search into the acts of the President.

The absurdity of this agitation, as it is called, may be seen in the fact that the Legislatures of two States have by solemn vote called upon Congress to investigate for the impeachment of the President. The necessity of the proceeding is sustained by the fact that petition after petition has been submitted under the rule and referred to that committee. It is seen in the fact that the country has no longer any confidence in the Executive. In my judgment the Constitution meant to provide that when the country, by an almost universal voice, expresses its loss of confidence in the Executive, the time has then come for Congress to declare that the occupant of the presidential chair, which he no longer fills, but obstructs, should be removed.

The gentleman from New York [Mr. Wood] says that such a precedent will put the Executive at the mercy of Congress. Well, who compose the Congress? Congress are the representatives of the people, fresh from them, speaking their will, echoing their thoughts, and enacting their high behests. It is for them to bring to the Senate, representing the organization of States, the charges against the high officer who has so offended against the people's will under the Constitution. And it is for

that Senate, on their solemn oaths, to judge upon the state of facts thus presented. I hold and shall—I may say that the country holds—that every officer ought to continue in office upon that tenure alone, except possibly judges, who are the only exceptions, that they are removable by the representatives of the people upon such misbehavior in office as the people shall deem sufficient.

Now, with the full sense of all the responsibilities that are upon me, knowing that I speak in the face of the nation, I can inform the gentleman from New York of one piece of testimony that can be brought on oath before the Committee of the Judiciary. I do not say it has yet been brought before them; but I say there is a piece of testimony that can be produced showing a gross abuse of the pardoning power by the President. A claim agent in West Virginia last year conceived the idea of having a large number of deserters from the Army of the United States pardoned, in order that he might obtain large gains from pressing their claims for their forfeited bounties and pay before the War Department. He took from the returns of the adjutant general of that State a list of one hundred and ninety-three deserters, forty only of whom he knew anything about; all the rest were unknown to him, except that they stood upon the rolls marked "deserters." He went to the Democratic candidate in one of the congressional districts of West Virginia—

Mr. WOOD. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Certainly.

Mr. WOOD. I desire to ask the gentleman, while he is so ready to produce evidence to show an abuse of the pardoning power, which he deems a sufficient cause for impeachment, why does he not add to that an exposé of the lost leaves of Booth's diary?

Mr. BUTLER. I do not fully hear the question of the gentleman.

Mr. WOOD. I ask the gentleman why he does not submit to the country, and especially to the Committee on the Judiciary, the very important testimony which was lost when the leaves were torn out of Booth's diary? I think from the intimations of the gentleman from Massachusetts [Mr. Butler] in reference to that subject,

some one, whether in this House or at the other end of the avenue I will not say, has been guilty of an outrage of much greater magnitude than an abuse of the pardoning power.

Mr. BUTLER. I will endeavor to answer the gentleman if I have time. Let me finish the statement I was making.

This claim agent in West Virginia called upon the Democratic candidate to state that if he could get these one hundred and ninety-three men pardoned they would vote the Democratic ticket in the last election, and as the district was likely to be close, their votes would probably elect him. Thereupon the candidate wrote a letter to the President of the United States, which letter was sent to him.

Mr. ELDRIDGE. I rise to a question of order. The point of order which I wish to state is this: the gentleman now occupying the Speaker's chair [Mr. BUTWELL] is aware of the fact that the gentleman from Massachusetts [Mr. BUTLER] has been permitted to come before the Committee on the Judiciary and examine a witness. The Chair is also aware that the injunction of secrecy has been imposed upon that committee. Now, I insist that, having been admitted before them by the courtesy of the committee, the gentleman from Massachusetts [Mr. BUTLER] has no right to comment upon the facts he is now giving to the House; he has no right to disclose any fact or statement which occurred before that committee.

Mr. BUTLER. I do not.

The SPEAKER *pro tempore*. The Chair cannot sustain the point of order raised by the gentleman from Wisconsin, [Mr. ELDRIDGE,] because the House has taken no action in that respect upon the proceedings before the committee.

Mr. BUTLER. I am careful not to state anything as having taken place before the Committee on the Judiciary. What I am now stating I know outside of the committee. But if the gentleman from Wisconsin [Mr. ELDRIDGE] chooses to tell the House that any such testimony as I am stating has been taken by the Committee on the Judiciary, it is he and not I who is making the revelation of what was done in committee.

Mr. ELDRIDGE. Mr. Speaker, I insist that I have not disclosed anything that occurred before the committee; but I have raised the question of order that the gentleman from Massachusetts, having been before the committee, and having had the privilege of examining witnesses [Mr. BUTLER. A witness] has no right to state the facts which appeared before the committee. Does the gentleman allege that these facts which he is stating did not come to his knowledge before the committee?

Mr. BUTLER. I say to the gentleman from Wisconsin that these facts came to my knowledge before I was ever in the

room of the Judiciary Committee, or else perhaps he never would have known anything about them till he hears the statement to the House the present time. He is the man who discloses what has been done in the Judiciary Committee when he says that I was before it. I have not said any word of what was done before the committee. The gentleman must keep the secrets of his own committee; I will not disclose them.

Now, I say again that that letter was sent to the President of the United States, saying that the district was close, and that if these men were pardoned they would vote the Democratic ticket and thus carry the district. With it was sent a copy of the list of deserters to the President of the United States, and thereupon every one of these one hundred and ninety-three men was restored to the roll and thus entitled to claim his pay and allowances, which he had forfeited by desertion; and the pay and allowances, in the judgment of those who have investigated the subject, exceed the sum of seventy-five thousand dollars.

Now, sir, I will explain to the House how I came to know anything about this matter; for, sir, I am no volunteer. The House did not seem to desire me to take any part in developing the evidence bearing on this impeachment, and I have so far let the House and its committee take care of itself in that regard. But, sir, I happen to be a member of the board of managers of the National Asylum for Disabled Soldiers; by the choice of my fellow-managers, I am president of that board. The fund which Congress has appropriated to the support of our disabled soldiers in that institution consists of the fines and forfeitures suffered by deserters; and when I was looking after that fund, as was my duty to do, I found that without evidence to sustain him, without examination, the President of the United States, for political reasons, had taken \$75,000 of that fund which the managers of this institution, of which he was one *ex officio*, were to administer for the benefit of the disabled heroes of the war, and had turned it over to the deserters from the Army, on the understanding only that they should vote the Democratic ticket. Learning this fact, sir, I felt bound to pursue this investigation; and the testimony which I have now in substance given to the House has been given upon the oath of a brevet brigadier general of the Army of the United States.

Mr. HUBBARD, of West Virginia. Will the gentleman from Massachusetts be kind enough to tell the House to which district of West Virginia his remarks has reference?

Mr. BUTLER. The district represented by Mr. KITCHEN. Oh, sir, I have no concealment.

Mr. HUBBARD, of West Virginia. I only want to get at the facts for the benefit of

history, and more particular of West Virginia. [Laughter.]

Mr. BUTLER. All right, sir; the gentleman shall have them all. He is welcome to anything that I can do in this regard for the benefit of West Virginia or any other place.

Now, sir, let me state one fact further, because I have nothing to conceal about this matter—I am speaking upon sworn testimony; if it is not true, let it be investigated. I never brought out any of these facts bearing on impeachment except when I have been much enforced—

“Like the flint which shows a hasty spark,
And straight is cold again.”

Mr. WOOD. ~~Will~~ the gentleman permit me to ask him whether, according to this testimony or within his own knowledge, the President had personal cognizance of these facts?

Mr. BUTLER. I will state what the testimony is. That list of one hundred and ninety-three deserters, with no other testimony but this letter, went to the President through the hands of Colonel Thomas B. Florence, who is somewhat known to members of the House; and the answer that came back was a restoration of every one of the men on that list, without dotting an i, or crossing a t, so far as can be seen, and upon no other testimony than the fact that they would vote the Democratic ticket; which I suppose would be a good reason for restoring all the deserters from the Army, thereby entirely absorbing the fund set aside for disabled soldiers.

Mr. WOOD. I submit that the reply of the gentleman from Massachusetts virtually acquits the President from any complicity in this transaction.

Mr. CLARKE, of Kansas. I yield to the gentleman from Massachusetts five minutes more.

Mr. BUTLER. I want to finish this statement to the House. My statement does not acquit the President because he has no right to restore to deserters hundreds and thousands of dollars out of the Treasury without some evidence of some deserving other than that they will vote for the Democratic ticket; and he had no other evidence in this case. There is where the trouble comes in. He received a letter from the candidate for Congress, accompanied by a list of deserters, and without evidence, without inquiry, without anybody's recommendation, without any deserving on their part, he does that act which restores them, takes from the Treasury \$75,000, takes it from the poor maimed soldiers, and gives it to those deserters.

I introduced the name of Colonel Florence because it was introduced in the testimony; and I never do anything behind any gentleman's back. The same testimony also shows when Mr. Florence brought back this list, which was sent to the claim agent in

the charge of and directed to the care of Hon. Thomas B. Florence, that he was paid by this claim agent \$1,000 for his service in that behalf. Is there any other question any gentleman would like to ask me? [Laughter.]

Mr. CHANLER. I ask the gentleman if that is the rate at which Democratic voters were procured in his experience when he was a Democrat?

Mr. BUTLER. “Out of the abundance of the heart the mouth speaketh.” I was never a Democrat in the gentleman's State. I never knew of any such transaction in my own.

Mr. CHANLER. I ask the gentleman to answer, because he seemed to make the assertion as if this were a Democratic question. I do not myself wish to be understood as in any way believing this has anything to do with the Democratic party. It is a transaction in a single district that has nothing at all to do with the Democratic party.

Mr. BUTLER. I do not charge the Democratic party with it. I never take notice of very small things, and I think the Democratic party is too small at present. [Laughter.] I always like to take a man of my size, when I am going strike. [Renewed laughter.]

Mr. CHANLER. I ask the gentleman if he thinks when he left the Democratic party he reduced it to its present size?

Mr. BUTLER. The country will judge what reduced it.

Mr. CHANLER. I am glad to hear that.

Mr. BUTLER. I cannot continue the colloquy with the gentleman, as it is not pertinent to the issue.

Mr. MARSHALL. I ask the gentleman from Kansas to yield to me a few moments.

Mr. CLARKE, of Kansas. I yield to the gentleman for a short time.

Mr. MARSHALL. I do not know whether I understood the gentleman from Massachusetts correctly. He speaks of facts which have been proven. To what evidence does he refer?

Mr. BUTLER. An investigation, sir, which I instituted for the purpose of seeing where the money of the asylum over which I presided was going, and which I took care should be put in the proper channels. My justification is that the gentleman from New York [Mr. Wood] said this whole agitation was absurd and was not based on the slightest evidence. I was driven in self-defence to say what I have. I had not said a word either about Booth's diary or about this matter until somebody wanted to know. Then I always answer.

Mr. MARSHALL. I am not aware that the matter of Booth's diary has been up this morning.

Mr. BUTLER. Oh, yes; it was referred to by the gentleman from New York, [Mr. Wood.]





